

**ORDINANCE NO. 20100211-036**

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 801 RED RIVER STREET FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR BUILDINGS AND STRUCTURES IN THE 25-YEAR AND 100-YEAR FLOODPLAINS; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** This ordinance applies to existing buildings and structures owned by Stubb's Austin Restaurant Co., L.C. located at 801 Red River Street within the 25-year and 100-year floodplain as described in Site Plan application number SP-2009-0163C.

**PART 2.** Council has considered the factors for granting a variance from floodplain regulations prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G105.7 (*Conditions for Issuance*). Council finds that the variances granted by this ordinance are the minimum necessary to afford relief, are based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variances granted in this ordinance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**PART 3.** A variance is granted from:

- (A) the restriction on construction in the 25-year floodplain prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (B) the flood proofing requirement in subsection (E) of Section 25-7-94 (*Exceptions in Central Business Area*);
- (C) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*);
- (D) the prohibition against expanding, changing, enlarging, or altering the use of a premises in a way which increases its nonconformity prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G102.3 (*Nonconforming uses*);
- (E) the requirement that the design and construction located in flood hazard areas be in accordance with American Society of Civil Engineers Manual 24

(*Flood Resistant Design and Construction*) prescribed in City Code Section 25-12-3, Building Code Section 1612.4 (*Design and Construction*); and

- (F) the requirement for documentation from a registered design professional prescribed in City Code Section 25-12-3, Building Code Section 1612.5 (*Flood Hazard Documentation*).

**PART 4.** The council finds that providing variances for the existing buildings and structures constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health and safety.

**PART 5.** Approval of this variance does not constitute approval of zoning, subdivision, a site plan, a building permit, or any other development permit, and it does not constitute a commitment to any particular land use, intensity of land use, or utility services. Approval of this variance does not constitute a guarantee of flood insurance availability, rates, or requirements.

**PART 6.** This variance expires if the project for which this variance is granted does not receive all necessary building permits before February 15, 2011.

**PASSED AND APPROVED**

February 11, 2010      § M. Metz FOR  
§  
§ Lee Leffingwell  
Mayor

**APPROVED:** [Signature]  
David Allan Smith  
City Attorney

**ATTEST:** [Signature]  
Shirley A. Gentry  
City Clerk